

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SONJA KRUSIC O'DONNELL,
Plaintiff,

v.

TRUSTEES OF DEERFIELD ACADEMY,
Defendant.

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) Docket No. 17-CV-12090-MGM
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AMENDED COMPLAINT AND JURY DEMAND

INTRODUCTION

1. This suit in law and equity seeks redress for a years-long pattern of sex discrimination, retaliation, and other unlawful treatment during which the plaintiff, Sonja Krusic O'Donnell ("Ms. O'Donnell"), a teacher at defendant Deerfield Academy ("Deerfield") for over 17 years, has been subjected to gendered criticisms, bullied and marginalized, and punished for reporting sexual harassment, standing up for female students, and for failing to conform to gender norms when she engaged in conduct that was acceptable for her male peers.

2. Deerfield has described itself as "a very gendered culture that puts one's gender on display in many ways." This culture has created a demoralizing and hostile working environment for outspoken female faculty like Ms. O'Donnell and has negatively impacted the experience of female students. Faculty turnover is high, and approximately 50% of the faculty have been at the school for five years or fewer, while the percentage of applications by girls to the school is declining. When asked on camera if they would send their children to Deerfield, several members of the 2017 graduating class said, unprompted, that if they had daughters they would not send them to Deerfield. (Members of the 2018 graduating class have been prohibited from

asking that question when they create their end-of-year video.)

3. Ms. O'Donnell, the faculty advisor for the Deerfield Feminist Club and a proud advocate for inclusion and gender equality, has consistently sought to advance the interests of female students at Deerfield who have been left unsupported or treated unfairly by the Deerfield administration, including Margarita Curtis ("Dr. Curtis"), the Head of School, John Taylor ("Mr. Taylor"), the Dean of Faculty, and Amie Creagh (Ms. Creagh), who is currently the Assistant Head of School for Student Life. Ms. O'Donnell's advocacy has included standing up for victims of sexual assault, stalking, and harassment by male peers, urging the administration to investigate a report of statutory rape on a school-sponsored trip, and generally calling out gender bias by the administration.

4. Deerfield, in turn, has concluded that Ms. O'Donnell has violated its "Code of Conduct" by speaking out in opposition to sexual harassment and by taking "aggressive" positions on behalf of female students and has sanctioned Ms. O'Donnell for such alleged misconduct.

5. Ms. O'Donnell has also directly experienced sexual harassment and gender-based harassment, and has faced retaliation for reporting such harassment. From 2003 to 2007, Faculty Member A intermittently made inappropriate and unwanted romantic advances toward Ms. O'Donnell. In 2007, Ms. O'Donnell and her husband Michael O'Donnell (Mr. O'Donnell), also a teacher at Deerfield, finally reported this sexual harassment in confidence. However, Deerfield intentionally or negligently allowed it to become common knowledge on campus that the O'Donnells had reported Faculty Member A. After that time, Ms. O'Donnell was scrutinized and reprimanded for minor disagreements, while Mr. O'Donnell was removed from a prominent committee as a direct response to his role in supporting his wife's report of harassment. Deerfield's subtle retaliation continued intermittently for many years, including Ms. O'Donnell's

eventual removal without cause from her longtime role as girls' swimming coach.

6. Ms. O'Donnell also experienced long-standing gender-based harassment from a male colleague, John Burke (Dr. Burke). Because Ms. O'Donnell and Dr. Burke were both swim coaches, she shared the pool deck with Dr. Burke for a decade. Despite the fact that Dr. Burke admitted to unprofessional outbursts against Ms. O'Donnell and was ultimately terminated for other misconduct, Deerfield administrators blamed and continue to blame Ms. O'Donnell for Dr. Burke's bad behavior.

7. In addition to tolerating Dr. Burke's harassment of Ms. O'Donnell, Deerfield has repeatedly failed to support female students who were victims of stalking, harassment, and sexual assault by their male classmates.

8. Instead of supporting these female students, Deerfield has created a culture in which female students and faculty who stand up to sexism face punishment, while male faculty and students who discriminate and create unwelcome or hostile environments for women and girls are not held accountable and are even placed in positions of leadership and/or awarded formal recognitions.

9. In this environment, Deerfield administrators have criticized and sanctioned Ms. O'Donnell for being too "aggressive." She has been advised to avoid "drama" and faulted for "unmanning" a male colleague to whom she stood up.

10. In early 2016, after Ms. O'Donnell once again advocated on behalf of a female student, Dean of Faculty Taylor undertook an intrusive and unwarranted investigation of Ms. O'Donnell, in which he canvassed male faculty members for complaints about Ms. O'Donnell based on her entire fifteen-plus year career at Deerfield. He ultimately concluded that Ms. O'Donnell had been aggressive and non-deferential toward authority: Ms. O'Donnell was punished for

advocating too forcefully for students in student disciplinary hearings, whereas multiple male colleagues who adopted a similar or more aggressive role in such hearings were not criticized or disciplined. As a result of this extraordinary investigation, Mr. Taylor reduced Ms. O'Donnell's pay and responsibilities, and unlawfully purported to require Ms. O'Donnell to seek counseling.

11. Ms. O'Donnell then complained that this investigation and the resulting actions were permeated with unlawful retaliatory animus and gender bias. As a result, Deerfield has subjected both Ms. O'Donnell and her husband to further retaliation, and has informed Ms. O'Donnell that it will not be renewing her contract for the 2018-2019 school year, thereby effectively terminating her after 18 years at Deerfield.

JURISDICTION AND VENUE

12. This action arises under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.; the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; the Equal Pay Act of 1963, 29 U.S.C. § 206(d); Mass. Gen. Laws ch. 151B; other relevant state and federal statutes; and the common law of the Commonwealth of Massachusetts, as hereinafter more fully appears. All conditions to jurisdiction under Title VII and Mass. Gen. Laws ch. 151B have been met.

13. This Court has subject-matter jurisdiction over claims arising under federal law pursuant to 28 U.S.C. § 1331, and supplemental jurisdiction over claims under state law pursuant to 28 U.S.C. § 1367.

14. As stated below, all parties live, work, and/or have primary places of business in Franklin County, Massachusetts. This Court therefore has jurisdiction over the parties, and venue is appropriate in this Court.

PARTIES

15. Plaintiff is a resident of Deerfield, Massachusetts, and continues to be an English teacher at Deerfield Academy.

16. Defendant Trustees of Deerfield Academy is a nonprofit organization based in Deerfield, Massachusetts, which operates Deerfield Academy, an elite boarding school.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. On February 1, 2017, Plaintiff filed a Charge of Discrimination with the Massachusetts Commission Against Discrimination (hereinafter MCAD), a copy of which is attached as **Exhibit A** and is incorporated herein by reference. The MCAD, in turn, filed the complaint with the Equal Employment Opportunity Commission (hereinafter EEOC).

18. Plaintiff notified the MCAD of her intent to file this action and requested a dismissal of the matter from the MCAD on or about October 6, 2017. Plaintiff will serve a copy of this Complaint on the General Counsel of the MCAD, consistent with 804 C.M.R. 1.15(2)(d).

19. Plaintiff received a Notice of Right to Sue from the EEOC on or about September 30, 2017, a copy of which is attached as **Exhibit B** and is incorporated herein by reference.

20. All of the conditions precedent to the institution of this action have been fulfilled.

STATEMENT OF FACTS

Ms. O'Donnell's Tenure at Deerfield

21. Ms. O'Donnell received a Bachelor's degree from Boston College and a Master's degree in English Literature from the University of Delaware. She received post-graduate grants and credits from Columbia University, Brown University, and Oxford University, and taught for nearly a decade before assuming her position at Deerfield.

22. Ms. O'Donnell joined the faculty of Deerfield as an English teacher in 2000.
23. Mr. O'Donnell became a Deerfield teacher the following year.
24. Ms. O'Donnell was quickly recognized as a strong teacher, the recipient in 2005 of "The Class of 1989 Junior Faculty Teaching Chair," and her classes are continually in high demand.
25. Deerfield has not evaluated Ms. O'Donnell's professional performance since November 2001, although the Employee Handbook has long provided that a faculty member should be evaluated every six to ten years. Not once in a decade as Dean of Faculty has Mr. Taylor visited one of Ms. O'Donnell's classes.
26. Ms. O'Donnell has taken seriously her role as a mentor and advisor for students, frequently opening her home on campus to groups of students for "feeds" and other social events. Her relationship with the student body has been publicly acknowledged by students in several ways, including in the student newspaper and informal publications.
27. From the start of her time at Deerfield, Ms. O'Donnell was a varsity swimming coach; she quickly became head coach of the varsity girls' swimming team. Indeed, Ms. O'Donnell was brought on as girls' swim coach with an eye to redesigning the training program to combine training for boys and girls in order to eradicate the gendered atmosphere that had become entrenched in the swimming program after Deerfield resumed co-education in 1989.
28. Under Ms. O'Donnell, the girls' swimming team achieved many records and strong performances despite consistently receiving less institutional support than the boys.

History of Sexual Harassment Against Ms. O'Donnell, and Deerfield's Subsequent Retaliation

29. From about 2003 to 2007, Faculty Member A made repeated and unwanted romantic advances toward Ms. O'Donnell, which made Ms. O'Donnell extremely uncomfortable.

30. During that period, Faculty Member A sent emails to Ms. O'Donnell with inappropriate intimacy, sharing private personnel information about colleagues and expressing love to her that was "not unconditional."

31. Ms. O'Donnell was reluctant to report this matter to the then-Dean of Faculty, because she feared he would not take the Faculty Member A matter seriously. Ms. O'Donnell had already approached the Dean about harassment by the boys' swim coach, Dr. Burke, and the Dean had explained that his preferred dispute resolution strategy was "getting laid by [his] wife" to relieve stress. As a result, Ms. O'Donnell had no confidence that the Dean would take action in response to her concerns about Faculty Member A.

32. After suffering the burden of this sexual harassment for years, Mr. and Ms. O'Donnell finally reported the harassment to Dr. Curtis during her first year as Head of School at Deerfield, the 2006 to 2007 school year, when they learned about Deerfield's future plans for Faculty Member A. Deerfield took no apparent action for over two months after Mr. O'Donnell first brought the matter to Dr. Curtis's attention.

33. Deerfield took action against Faculty Member A following Ms. O'Donnell's complaint.

34. On information and belief, Deerfield substantiated that Faculty Member A sexually harassed Ms. O'Donnell.

35. Despite the fact that Ms. O'Donnell's complaint was well-founded and made in good faith, Deerfield and Dr. Curtis retaliated against the O'Donnells by withholding Ms. O'Donnell's contract while it investigated her and her complaint; permitting the confidential complaint to become widely known around campus without showing support for Ms. O'Donnell; and removing Mr. O'Donnell from the prestigious and important Strategic Planning Committee specifically because he had been involved with reporting Faculty Member A.

36. Since reporting Faculty Member A in the 2006-2007 school year, Ms. O'Donnell has not been invited to participate on important or visible committees, has not been given awards, and has not been given pay raises commensurate with her merit. Without these opportunities, Ms. O'Donnell has had limited prospects for career advancement. She has suffered irreparable harm to her reputation in the elite boarding-school community.

37. By thus stunting Ms. O'Donnell's career growth and by taking advantage of periodic opportunities to investigate, discipline, and punish her, Defendant has engaged in a continuing, long-term pattern of retaliation against Ms. O'Donnell because of her protected activity in reporting and opposing sexual harassment.

Deerfield Fails to Address Harassment and Bullying by Dr. Burke, Then Punishes Ms.

O'Donnell

38. In or about 2003, Dr. Burke, a Deerfield faculty member who was then serving as boys' swimming coach, began a pattern of bullying, harassing, and demeaning Ms. O'Donnell in front of students and colleagues.

39. Dr. Burke acted aggressively, yelled at Ms. O'Donnell, cursed at her, criticized her performance, and intimidated her, continually causing Ms. O'Donnell to be in fear of both emotional and physical violence.

40. Dr. Burke engaged in a range of inappropriate and unprofessional behavior (much of which he admitted), including but not limited to:

- a. Shouting at and demeaning Ms. O'Donnell in front of her colleagues, students, and even at interscholastic meets;
- b. Instructing his athletes to demean the girls' swimming team, and failing to

discipline them for body shaming the girls on the team and criticizing their performance;

c. Telling male athletes to remove a Deerfield girls' banner at an interscholastic meet, specifically instructing them, "Take this shit down!";

d. Falsifying championship entry times for the boys' swim team;

e. [REDACTED]

[REDACTED] and

f. Regularly swimming alone in the pool facility without a lifeguard during free periods, in violation of safety standards.

41. Ms. O'Donnell reported this misconduct on multiple occasions and officials including Mr. Taylor recognized that the environment she faced was "threatening," but Deerfield failed to take effective remedial action. At one point Deerfield required Dr. Burke to apologize to Ms. O'Donnell and he did so, but this had no effect on Dr. Burke's actions.

42. In 2007, despite noting that Dr. Burke admitted to unprofessional behavior and that additional instances were substantiated by third parties, the Deerfield Athletic Director at the time, Charles "Chip" Davis (who now serves as Dean of Admissions & Financial Aid), concluded that Ms. O'Donnell was 70% at fault for the harassment she suffered, and proposed that Ms. O'Donnell be removed as coach. Neither Dr. Burke nor Ms. O'Donnell was removed at that time.

43. Ignoring his record of abusive and inappropriate behavior, Deerfield gave Dr. Burke the school's most prestigious faculty award in 2012, thereby holding him up to Ms. O'Donnell, her colleagues, and students as a role model to be emulated.

44. Ms. O'Donnell continued to coach the girls' swimming team to successful outcomes until she went on sabbatical from 2013-2014.

45. Following the sabbatical, Ms. O'Donnell was removed as swimming coach without explanation, causing rumors and reputational damage.

46. On information and belief, Dr. Burke was so aggressive and abusive toward Ms. O'Donnell's replacement as head girls' swimming coach that Dr. Burke was required to participate in a year-long professional mediation with her. Despite this evidence that Dr. Burke was unable to behave appropriately with at least one other female colleague, Deerfield continues to assert that Ms. O'Donnell bears primary responsibility for having been unable to placate her abusive male colleague.

47. Despite Dr. Burke's continued unprofessional behavior, Deerfield kept him on as boys' swimming coach.

Dr. Burke Allows Students to Be Victimized, But Is Not Disciplined

48. In or about February 2015, Dr. Burke led a combined training trip to Florida for both the boys' and girls' swimming and diving teams.

49. In each of the several years preceding Ms. O'Donnell's sabbatical, the O'Donnells had led the girls' team on a separate trip from the boys, taking precautions to ensure that the students remained safe. Ms. O'Donnell was concerned about the lax and dangerous manner in which Dr. Burke led the boys' team on training trips, and expressed concerns to the school when she learned that he would be responsible for both teams during her sabbatical.

50. During the combined swimming trip in January 2015, Dr. Burke failed to adequately supervise the students or enforce a curfew.

51. On Dr. Burke's watch, [REDACTED]

[REDACTED]

[REDACTED]

52. Ms. O'Donnell learned of these events from a parent and wrote to the then-Dean of Students Amie Creagh to encourage her to meet with the parent and to take action to address the reports of [REDACTED] on the trip.

53. On information and belief, the Dean avoided meeting with that parent, and Deerfield took no action to investigate these reports of [REDACTED]

54. On information and belief, Deerfield also took no action to investigate these reports after counsel for Ms. O'Donnell described them in a letter to counsel for Deerfield in October 2016, while students who attended the trip were still attending Deerfield.

55. Deerfield took no public action against Dr. Burke as a result of this trip; instead, the Dean of Students described the trip in a faculty meeting as a "tradition" that had gotten out of hand, thereby falsely implying that the O'Donnells had tolerated or encouraged similar misconduct on previous trips.

56. Even after this trip, Dr. Burke continued to coach the boys' swimming team until, on or about August 30, 2016, his employment with Deerfield was abruptly terminated.

57. Dr. Burke was suddenly forced to leave Deerfield in August 2016 due to [REDACTED]

[REDACTED]

[REDACTED]

Ms. O'Donnell's Support for Victims of Sexual Misconduct, and Deerfield's Lack of Response

58. On several occasions between 2011 and 2016, Ms. O'Donnell supported and defended female Deerfield students, including some who had been subjected to sexual assault, stalking, bullying, or sexual harassment.

59. For instance, [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Concerned for [REDACTED] safety, Ms. O'Donnell notified [REDACTED]

60. [REDACTED]

[REDACTED]

61. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

62. Deerfield then quietly issued letters of reprimand to the boys, without holding a disciplinary hearing.

63. Other faculty members learned of the incident for the first time at a faculty meeting at the end of the year. Ms. O'Donnell, who happened to be the only faculty member present with first-hand knowledge of these events, informed the faculty of the details of [REDACTED]

[REDACTED] Numerous other faculty members were furious and demanded a full investigation and a disciplinary hearing.

¹ In order to protect the privacy of current and past Deerfield students, they are identified here by fictitious initials. Deerfield is aware of the identities of the individuals referred to in this Complaint.

64. The following fall, Deerfield held a disciplinary hearing for the [REDACTED] and simply reimposed the same sanction imposed without the disciplinary hearing: a letter of reprimand.

65. All [REDACTED] involved were given or allowed to retain campus leadership positions and were therefore held up to their schoolmates as role models despite their actions.

66. On information and belief, A.B. subsequently suffered from retaliation by the three boys and their friends, but Deerfield took no further action.

67. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Ms. O'Donnell notified school officials and urged the Dean of Students both to take action against the perpetrator and to protect [REDACTED] against ostracism and retaliation as a whistleblower.

68. On information and belief, Deerfield took no disciplinary action against the male student, but only moved him to a different class. The male student was subsequently given a leadership position on campus.

69. Despite Ms. O'Donnell's efforts to oppose sexual harassment and misconduct on campus, Deerfield continued a pattern of indifference and even rewarded male students and faculty who have engaged in inappropriate behavior.

Additional Examples of Deerfield's Gendered Culture

70. Ms. O'Donnell has also experienced or witnessed numerous other examples of sex discrimination and Deerfield's gendered culture. When Ms. O'Donnell went on sabbatical in 2013-2014, her male department chair excluded her from participation in email discussions within the English Department even after she requested that she remain connected in this way.

By contrast, her husband was permitted to participate within his department during his sabbatical.

71. In May 2013, [REDACTED]
[REDACTED]
[REDACTED] deemed the behavior “misogynistic” and “violat[ing] the very essence” of the Deerfield culture of respect and character education. Then-Dean of Students Amie Creagh dismissed the incident as a boy being a “doofus,” undermining [REDACTED] authority and subordinating an inclusive culture to the unwritten rule that “boys will be boys.”

72. Deerfield has also been dismissive of other sexual assault complaints. Another student who complained of a sexual assault [REDACTED] was told that the outcome – no discipline for the boy – was based on the very difficult choice between “a boy’s future and her feelings.”

73. In the beginning of 2016, at the request of her department chair, Ms. O’Donnell and two colleagues in the English Department, one male and one female, collaborated on a grant proposal. Dean of Faculty Taylor then convened a meeting about the proposal, to which he invited only Ms. O’Donnell’s male (and more junior) colleague, excluding Ms. O’Donnell and her female colleague. Ms. O’Donnell expressed concern about the total exclusion of women from the process and withdrew from the proposal process.

74. In 2016, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] When faculty members raised concerns about elevating this student to a leadership position, Dr. Curtis engaged in victim-blaming by casting aspersions on

female students who post “seductive” photos on social media.

Gendered Criticism and Double Standards Result in Discipline and Referral to Counseling in 2012

75. Ms. O’Donnell has advocated strongly within Deerfield on behalf of female students, including victims of sexual misconduct, and has sometimes spoken on behalf of such students when they themselves face disciplinary proceedings.

76. In response to this advocacy, Ms. O’Donnell has been criticized for being insufficiently deferential to male deans, being “aggressive,” and “not supporting the institution,” when male colleagues who similarly defended students were not criticized or disciplined.

77. On one occasion, then-Athletic Director Charles Davis, in Mr. Taylor’s presence, told Ms. O’Donnell that she had “unmanned” Dr. Burke after she raised legitimate concerns about his aggressive, bullying behavior.

78. In 2012, because of Ms. O’Donnell’s advocacy on behalf of female students and her failure to conform to gendered expectations for behavior, Ms. O’Donnell was reprimanded and required to see a mental health counselor, in violation of the Americans with Disabilities Act.

79. At the end of the 2011-2012 academic year, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

80. Then, in October 2012, then-Academic Dean Peter Warsaw took exception to Ms. O'Donnell's "staunch advocacy" in two female students' disciplinary hearings. For example, Ms. O'Donnell was accused of "aggressively attack[ing]" Mr. Warsaw because, during a hearing against [REDACTED]

[REDACTED] Ms. O'Donnell asked Mr. Warsaw to share the evidence against [REDACTED] rather than merely accepting his claims.

81. Purportedly based on these complaints by [REDACTED] and Ms. O'Donnell's advocacy for [REDACTED] on October 8, 2012, Mr. Taylor unlawfully asked Ms. O'Donnell to see a counselor, either a specifically named psychologist or a therapist through the Deerfield Employee Assistance Plan. Mr. Taylor wrote that he would provide the counselor with "background information" and then Ms. O'Donnell would need to see the counselor ten times, after which he or she would "inform [Deerfield] about the progress [Ms. O'Donnell has] made."

82. This directive to see a counselor was unjustified by any legitimate concern about Ms. O'Donnell's ability to perform her job effectively and safely.

Gendered and Retaliatory Criticism Resurfaced in 2016

83. In or about [REDACTED] Ms. O'Donnell acted as an advisor for a female student, [REDACTED] in a Disciplinary Committee (DC) hearing [REDACTED]

84. Before the DC hearing, Ms. O'Donnell briefly [REDACTED]

[REDACTED]

85. During the DC hearing, Ms. O'Donnell discussed the discrepancy between the punitive approach taken against [REDACTED] and a more lenient approach taken against [REDACTED]

[REDACTED]

86. After the DC hearing, Mr. Taylor informed Ms. O'Donnell that he was investigating allegations by [REDACTED]

[REDACTED] allegations that Ms. O'Donnell denies.

87. After an "investigation," Deerfield concluded that Ms. O'Donnell had not [REDACTED]

Indeed, Deerfield appeared to have no concern that Ms. O'Donnell had, in fact, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

88. At the time, Deerfield had an anti-bullying policy with specified procedures for resolving complaints, which stated that "[b]ullying generally involves a pattern of conduct that is directed at a victim, rather than a single isolated incident."

89. Mr. Taylor did not follow the anti-bullying policy in his investigation, nor did he dismiss the complaint on the basis that, even if the allegations were true, as a single isolated incident they could not constitute bullying.

90. Instead, Mr. Taylor expanded his investigation to include Ms. O'Donnell's purportedly "aggressive" and non-deferential conduct over her entire time at Deerfield. Mr. Taylor sought feedback from Ms. O'Donnell's male colleagues and solicited a statement from Ms. O'Donnell.

91. In her statement, Ms. O'Donnell raised concerns about differential treatment.

92. Mr. Taylor then issued a report that included false information, including allegations that

did not actually pertain to Ms. O'Donnell, such as assertions that she had been aggressive and lawyerly in a disciplinary hearing conducted at Deerfield while Ms. O'Donnell had in fact been out of the country on sabbatical. After Ms. O'Donnell pointed out that Mr. Taylor had misstated these facts, had ignored the narrative he had solicited from her, and had issued a report that appeared to be the product of discriminatory and retaliatory animus, Mr. Taylor recharacterized his report as a preliminary draft and amended his report to remove some of this inaccurate and inapplicable information. However, he continued to largely ignore her response and his conclusion remained essentially unchanged.

93. Mr. Taylor's report also faulted Ms. O'Donnell for speaking up in a faculty meeting about the administration's handling of the [REDACTED] who stalked and harassed [REDACTED] Mr. Taylor's report, citing this opposition to sexual harassment and violence as an example, stated: "Criticizing colleagues publicly violates the expectations expressed in Deerfield's Code of Conduct."

94. Ultimately, although Mr. Taylor correctly determined that Ms. O'Donnell had not [REDACTED] [REDACTED] he found that Ms. O'Donnell had violated the Deerfield Code of Conduct, in large part because of her "aggressive" stances during disciplinary hearings, criticism of the institution, and because she did not continue to meet with a mental health counselor in 2012, as Mr. Taylor had illegally demanded.

95. Based on these conclusions, on April 11, 2016, Mr. Taylor, with Dr. Curtis's approval, reduced Ms. O'Donnell's pay; limited her duties; stopped assigning students to her as advisees and barred her from serving as an advocate at student disciplinary hearings for two years; and required her to see a mental health counselor as a requirement of continued employment.

96. Subsequently, Dr. Curtis denied Ms. O'Donnell a cost-of-living raise for the following

year, which Ms. O'Donnell has always received during her over 16 years at Deerfield, except for one year when, on information and belief, nobody received such a raise.

97. Additionally, Deerfield later specified that Ms. O'Donnell had to see a counselor with certain qualifications, provide him or her with Mr. Taylor's investigative report, and have the clinician report to Deerfield about Ms. O'Donnell's understanding of her role as an advisor.

Deerfield initially proposed that Ms. O'Donnell see a local social worker whose area of focus includes combat veterans and not educators. When Ms. O'Donnell instead suggested that she see a female psychologist who is also an educator and specializes in psychodynamic theory with published research and clinical work on vulnerable and oppressed populations, Deerfield then arbitrarily changed the minimum qualifications required for the clinician it wanted Ms.

O'Donnell to see.

98. After Ms. O'Donnell protested that the counseling requirement was retaliatory and violated the Americans with Disabilities Act, Deerfield suspended the counseling requirement but has never rescinded it.

99. This unfair and unjustified investigation and disciplinary action were due to unlawful discrimination and retaliation, and Ms. O'Donnell, through counsel, informed Deerfield, in letters on April 1, 2016, and October 5, 2016, that she believed she had been and was continuing to be subject to discriminatory and retaliatory treatment.

Additional Retaliation By Deerfield

100. Since asserting claims of discrimination and filing her MCAD complaint, Ms. O'Donnell has been subject to additional retaliatory conduct, and both she and her husband have been subject to additional investigations.

101. In September 2016, soon after she raised a concern of sex discrimination in a grant proposal process, Ms. O'Donnell was questioned by the Director of Human Resources about her compliance with the unlawful counseling requirement of her contract.

102. Prior to September 2016, in over 15 years at Deerfield, Ms. O'Donnell had only been called into Human Resources and investigated once before, after she reported Faculty Member A's sexual harassment in 2007. She had also not been investigated by Human Resources at any of her previous schools in her academic career dating back to 1988.

103. Since September 2016, Ms. O'Donnell has been investigated by Deerfield (either Human Resources or an outside investigator) at least three separate times, resulting in no further discipline or finding that she violated any school policy.

104. In early 2017, a student club for which Ms. O'Donnell was a faculty advisor produced a publication that engendered controversy. Ms. O'Donnell had not seen or approved the publication before it was produced. Nonetheless, Deerfield conducted an investigation in which Ms. O'Donnell was required to participate in a lengthy interview with the Director of Human Resources, and was pressured by the Dean of Students to co-sign a public letter of apology, which she declined to do.

105. On information and belief, it was unprecedented for a faculty advisor to be individually investigated by Human Resources for the creative expression of a student organization.

106. Deerfield scrutinized and investigated Ms. O'Donnell unduly harshly in this instance because she had raised concerns of gender discrimination and retaliation and had filed a Charge of Discrimination at the MCAD and EEOC about a month earlier.

107. On August 31, 2017, during a meeting of the entire faculty, a speaker discussing issues relating to sexual abuse was using Mr. Taylor's laptop computer for a presentation. When Mr.

Taylor was assisting the speaker, he allowed a document, which discussed Ms. O'Donnell and her claims against Deerfield, to be repeatedly displayed to the faculty in the auditorium.

108. Allowing such a document to be displayed in this manner was intentional or at the least reckless.

109. As a result of this public display of Ms. O'Donnell's claims against Defendant, Ms. O'Donnell left the room in embarrassment and despair. She was physically shaking from the stress of this sudden and unexpected exposure. She did not feel well enough to attend the rest of the meetings that day and consulted her doctor for stress and anxiety.

110. This inappropriate disclosure of Ms. O'Donnell's allegations was retaliatory, and continued a pattern of retaliation from a decade earlier, when Deerfield allowed it to become public that Ms. O'Donnell had been involved in reporting Faculty Member A for sexual harassment.

111. In [REDACTED] Deerfield initiated a further retaliatory investigation against Ms. O'Donnell because she was alleged to have given advice to a student, [REDACTED]
[REDACTED]

112. In addition, Human Resources began investigating Mr. O'Donnell in October 2017, for the first time in his more than 16 years at Deerfield, regarding the same incident as a further form of retaliation against Ms. O'Donnell.

113. At a boarding school, students encounter and receive advice and encouragement from numerous faculty members on a regular basis. Deerfield states on its public website in order to attract prospective students: "All faculty live on or near campus. They work with students in many different ways whether academic, co-curricular, extracurricular or residential. They teach, coach, and counsel students."

114. Deerfield was aware that Ms. O'Donnell was providing guidance to [REDACTED] in the fall of 2016 (before Ms. O'Donnell filed claims at the MCAD or in court), and even assigned Ms. O'Donnell to engage with [REDACTED] despite the fact that [REDACTED] was not her formal advisee. At that time, Deerfield did not indicate that Ms. O'Donnell was acting inappropriately in any way.

115. Although Ms. O'Donnell did nothing out of the ordinary [REDACTED], she was again subjected to a lengthy interview with the Director of Human Resources to determine whether she had violated the retaliatory and unwarranted sanction of refusing to assign students to Ms. O'Donnell as advisees.

116. During this investigation, multiple Deerfield administrators, including the head of Human Resources, visited [REDACTED] in an effort to build a specious case for terminating Ms. O'Donnell's employment in retaliation for Ms. O'Donnell's protected activity.

117. After this investigation, Deerfield decided not to renew Ms. O'Donnell's contract for the 2018-2019 school year, thereby effectively terminating her.

118. Deerfield concluded that in forming supportive relationships with students [REDACTED] consistent with her role as a teacher, coach, and mentor at a boarding school, Ms. O'Donnell had allegedly violated the sanctions imposed on her in 2016.

119. Ms. O'Donnell did not in fact violate the sanctions imposed on her in 2016, or any other Deerfield rule or policy.

120. Although students often seek Ms. O'Donnell's counsel on a range of topics, particularly on feminist perspectives and issues related to gender, as a result of this additional discipline, Ms. O'Donnell has had to direct students not to speak to her or seek her advice, because she has been

informed that she could be subject to further discipline, including immediate termination, for discussing such matters with a student.

121. For instance, since Deerfield decided to terminate Ms. O'Donnell's employment, an administrator has informed Ms. O'Donnell that if a female student were to report a sexual assault to her, Ms. O'Donnell could be immediately fired.

122. Ms. O'Donnell learned of the decision to terminate her employment by not renewing her contract on or about January 4, 2018, one day after Deerfield filed its Answer in this action.

Unequal Pay Due to Gender

123. On information and belief, Ms. O'Donnell is underpaid compared to similarly situated male faculty.

124. For example, Ms. O'Donnell is paid less than her husband Mr. O'Donnell, who has one less year of seniority and experience at Deerfield.

125. On information and belief, other male faculty are paid more than Ms. O'Donnell for like work.

126. On information and belief, these disparities in compensation are not justified by seniority.

127. As Deerfield has no functional system of faculty evaluations, any difference in salaries cannot be justified by differences in job performance. Instead, decisions about pay, teaching chairs, and other awards and compensation are entirely subjective and arbitrary.

COUNT ONE
Gender Discrimination
Mass. Gen. Laws ch. 151B, § 4

128. Plaintiff realleges, reasserts, and incorporates by reference the facts and allegations stated in the previous paragraphs.

129. Defendant treated Ms. O'Donnell differently and less favorably in employment than male colleagues, including in the terms, conditions, and compensation for employment, because of her sex.

130. Defendant's actions constitute discrimination against Ms. O'Donnell based on gender in violation of Mass. Gen. Laws ch. 151B, § 4(1).

131. Defendant's conduct created a hostile work environment that adversely impacted the conditions of Ms. O'Donnell's employment.

132. Defendant performed equal work to male colleagues, but was underpaid based on her gender.

133. As a result of Defendant's actions, Ms. O'Donnell suffered substantial physical, emotional, and economic harm, including loss of wages, damage to reputation and future earning capacity, and incurred legal fees and costs.

COUNT TWO
Retaliation
Mass. Gen. Laws ch. 151B, § 4

134. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.

135. Plaintiff engaged in protected activity including, but not limited to, filing and pursuing a Charge of Discrimination at the MCAD, reporting sexual harassment, and opposing discrimination against female students and faculty.

136. Plaintiff undertook these protected activities reasonably and in good faith in order to combat wrongful discrimination.

137. Defendant was aware of Plaintiff's protected activity.

138. Because of her protected activity, Defendant engaged in materially adverse actions with

respect to Ms. O'Donnell, in violation of Mass. Gen. Laws ch. 151B, § 4(4) and (4A).

139. As a result of Defendant's actions, Ms. O'Donnell suffered substantial physical, emotional, and economic harm, including loss of wages, damage to reputation and future earning capacity, and incurred legal fees and costs.

COUNT THREE
Discrimination in Salary
Mass. Gen. Laws ch. 149, § 105A

140. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.

141. Deerfield's conduct as set forth above violate Mass. Gen. Laws ch. 149, § 105A in that Defendant has discriminated in the payment of wages as between the sexes, paying Ms. O'Donnell a salary less than that paid to employees of the opposite sex for work of like or comparable character or work on like or comparable operations.

142. This discrimination in pay was not justified by seniority.

143. As a result of Defendant's actions, Ms. O'Donnell suffered a loss of wages, pension, benefits, and earning capacity, and damage to her reputation, and has incurred legal costs.

COUNT FOUR
Gender Discrimination
Title VII of the Civil Rights Act of 1964
42 U.S.C. § 2000e-2(a)(1)

144. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.

145. Defendant discriminated against Plaintiff with respect to her compensation, terms, and conditions of employment, and otherwise adversely affected her status as an employee, because of her sex.

146. As a result of Defendant's actions, Ms. O'Donnell suffered substantial physical, emotional, and economic harm, including loss of wages, damage to reputation and future earning capacity, and incurred legal fees and costs.

COUNT FIVE
Retaliation
Title VII of the Civil Rights Act of 1964
42 U.S.C. § 2000e-3(a)

147. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.

148. Plaintiff engaged in protected activity including, but not limited to, filing a Charge of Discrimination with the Equal Employment Opportunity Commission, reporting sexual harassment, and opposing discrimination against female students and faculty.

149. Plaintiff undertook these protected activities reasonably and in good faith in order to combat wrongful discrimination.

150. Defendant was aware of Plaintiff's protected activity.

151. Because of her protected activity, Defendant engaged in materially adverse actions with respect to Ms. O'Donnell.

152. As a result of Defendant's actions, Ms. O'Donnell suffered substantial physical, emotional, and economic harm, including loss of wages, damage to reputation and future earning capacity, and incurred legal fees and costs.

COUNT SIX
Pay Discrimination
Equal Pay Act of 1963
29 U.S.C. § 206(d)

153. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.

154. Defendant has discriminated against Plaintiff by paying her less than male colleagues for jobs requiring equal skill, effort, and responsibility, performed under similar working conditions.

155. This discrimination is not justified by seniority, merit, an earnings system based on quantity or quality of production, or other neutral factors besides sex.

156. As a result of Defendant's actions, Ms. O'Donnell suffered substantial physical, emotional, and economic harm, including loss of wages, damage to reputation and future earning capacity, and incurred legal fees and costs.

COUNT SEVEN
Unlawful Medical Examination
Americans with Disabilities Act of 1990
42 U.S.C. § 12112(d)(4)(A)

157. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.

158. By purporting to mandate that Ms. O'Donnell seek psychological counseling in 2012 and 2016, Deerfield unlawfully required that she undergo a medical examination.

159. This requested medical examination was neither job-related nor consistent with business necessity.

160. Deerfield did not at any time believe, nor did it have any reasonable basis to believe, that Ms. O'Donnell constituted a direct threat to herself or to others.

161. As a result of Defendant's actions, Ms. O'Donnell suffered substantial physical, emotional, and economic harm, including loss of wages, damage to reputation and future earning capacity, and incurred legal fees and costs.

COUNT EIGHT
Retaliation/Interference
Americans with Disabilities Act of 1990
42 U.S.C. § 12203

162. Plaintiff realleges, reasserts and incorporates by reference the facts and allegations stated in the previous paragraphs.

163. Defendant took disciplinary action against Plaintiff, in part, because she opposed and failed to comply with Defendant's 2012 requirement that she undergo psychological counseling.

164. Plaintiff's protected activity was a motivating factor for Defendant's adverse actions, and but for her protected activity, one or more adverse actions would not have occurred.

165. In so doing, Defendant retaliated against Plaintiff for her protected activity and interfered with her enjoyment of her right to be free of unwarranted employer medical examinations. 166. As a result of Defendant's actions, Ms. O'Donnell suffered substantial physical, emotional, and economic harm, including loss of wages, damage to reputation and future earning capacity, and incurred legal fees and costs.

WHEREFORE PLAINTIFF REQUESTS THAT THE COURT ORDER:

- a. That judgment be entered for her and against Defendant;
- b. That Plaintiff be compensated for any loss of wages and/or benefits, damage to reputation and earning capacity, incurred as a result of Defendant's unlawful acts;
- c. That Plaintiff be awarded an amount of money that will fairly compensate her for the emotional and physical pain and suffering caused by Defendant's unlawful acts;
- d. That Defendant pay Plaintiff's costs and attorneys' fees resulting from this action;
- e. That Defendant pay Plaintiff interest on any judgment entered from the time of the filing of this suit at the MCAD;
- f. That Defendant be ordered to pay Plaintiff punitive damages; and
- g. That Defendant be ordered to pay such relief as may be just and proper and/or that will make Plaintiff whole.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE

Respectfully Submitted,
Sonja Krusic O'Donnell,
By her attorneys,

/s/ Emma Quinn-Judge
Emma Quinn-Judge (BBO# 664798)
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April 27, 2018

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants identified on the Notice of Electronic Filing.

/s/ Emma Quinn-Judge